

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): IKEZAWA, et al.
Serial No.: 10/802,776
Filed: March 18, 2004
For: PRESENCE DATA MANAGEMENT METHOD
Group: 2154
Examiner: L. Donaghue
Conf. No.: 4685

RESPONSE TO RESTRICTION

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

December 23, 2008

Sir:

This paper is in response to the Office Action dated September 23, 2008, in connection with the above-identified application.

RESTRICTION REQUIREMENT

A restriction requirement has been made for the reasons beginning on page 2 of the Detailed Action portion of the Office Action.

PROVISIONAL ELECTION

In order to comply with the requirement, Applicant provisionally elects, without traverse, for prosecution on the merits, Group I; including at least claims 1-5.

NO ADMISSION - RESTRICTION/ELECTION

Applicant submits that the instant response (including the comments submitted and the provisional election) is not an admission on the record that the respective species are separately distinct species and/or obvious variants.

CONTINUATION(S)/DIVISIONAL(S) FOR NON-ELECTED SUBJECT MATTER

Despite any traversal set forth in other parts of this paper regarding any Restriction/Election, one or more related (e.g., continuation/divisional) applications may be filed to pursue subject matter not elected in the present application. Applicant submits that any filing of continuation(s)/divisional(s) should not be taken as any prejudice, admission or disclaimer that the Restriction/Election is correct, but instead, is merely use of separate applications to move the other subject matter through the patenting process.

CONTINUATION(S)/DIVISIONAL(S) - DOUBLE PATENTING PROHIBITED

Regarding any related continuation/divisional application(s) filed to pursue subject matter identical to or consonant with Restriction/Election subject matter not elected in the present application, it is respectfully submitted that the third sentence of 35 U.S.C. 121 and MPEP 804.01 prohibit any double-patenting rejection between this and the related continuation/divisional applications.

EXAMINER INVITED TO TELEPHONE

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to

maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 520.43677X00) and please credit any excess fees to such deposit account.

Respectfully submitted,

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